

CALIFORNIA STATE BOARD OF EDUCATION

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Date : August 31, 2004

To : Members, State Board of Education

From : Karen Steentofte
Chief Counsel

Subject: September Meeting Item W-27 Reorganization/Bond Indebtedness

A reorganization proposal (Item 42) before the Board in September involves the issue of what area will be taxed to repay outstanding bonds if territory in the Centinela Valley Union High School District (Centinela) leaves to unify with the Wiseburn Elementary District. Under the proposed reorganization, approximately 40% of Centinela's assessed valuation would leave to join the new Wiseburn Unified School District. A waiver was proposed to allow the territory leaving Centinela to retain the bonded indebtedness in order to achieve a more equitable result for Centinela. This memo is to inform you that the above waiver request is not necessary to allow the existing bonded indebtedness to transfer with the territory to the Wiseburn District.

Education Code section 35575 and 35576, together provide a statutorily defined method of dividing the bonded indebtedness in a reorganization. Specifically, if the transferring territory does not include any improvements (buildings), the transferring territory leaves all the bonded indebtedness with the original school district, in this case Centinela. If the transferring territory does include improvements, the transferring territory takes either its proportionate share of the bonded indebtedness or the bonded indebtedness that covered the cost of the improvements, whichever is greater, to the new district. In this reorganization the statutory default would have the transferring territory leaving all the bonded indebtedness with Centinela as there are no improvements in the transferring territory.

Education Code section 35738, however, allows a reorganization plan to include a method of dividing the bonded indebtedness in a manner other than the statutorily defined method for the purpose of providing greater equity. Specifically, Education Code section 35738 allows for the consideration of assessed valuation when developing an equitable alternative to the statutory method of dividing the bonded indebtedness.

The overall statutory scheme for reorganizations allows the plan to define many of the terms, but defines a default resolution if the plan does not address a requisite issue, such as number of Board members or area by which they are elected. Likewise, Education Code section 35738 provides flexibility in determining how bonded indebtedness will be divided, and Education Codes sections 35575 and 35576 provide the default resolution.

While some may argue that Education Code section 35738 can only be invoked if the reorganization includes a transfer of improvements as specified in Education Code section 35576, the reference to section 35576 can be explained as recognition that section 35576 enunciates the default resolution, but is not a condition of applying section 35738. More importantly, there is no policy argument that supports the interpretation that only where an improvement is transferred can an equitable alternative be implemented. Why would the authority to devise an alternate, more equitable, division of bonded indebtedness be given only when some minor improvement, such as a pump house, was transferred? Why would equity not also be a consideration when an improvement is not transferred, as in the case at hand?

The State Board of Education has the authority pursuant to Education Code section 35754 to amend a reorganization plan within the requirements of Article 3 (which includes section 35738). Accordingly, the Board has the authority to approve the reorganization plan permitting territory to leave Centinela with the bonded indebtedness as authorized under Education Code section 35738. A waiver of Education Code sections 35575 and 35576 is not necessary.

KS:ve

cc: Darline Robles, Los Angeles County Superintendent of Schools
Don Brann, Superintendent, Wiseburn Elementary School District
Cheryl White, Superintendent, Centinela Valley Union High School District